

Appl. No. 09/942,784  
Amendment dated October 15, 2003  
Reply to Final Office Action dated June 23, 2003

### **REMARKS**

Entry of this amendment under 37 C.F.R. 1.116 is respectfully requested because it cancels claims, thereby placing the application in better form for appeal. No new matter is believed to be added to the application by this amendment.

### **Status of the Claims**

Upon entry of this amendment, claims 1-5, 7-18 and 20 are pending in the application. Claims 6 and 19 are canceled by this amendment. The subject matter of allowable claim 6 has been incorporated into claim 1. Claims 7 and 8 have been amended to depend upon a non-cancelled claim. Claims 10, 11, and 16 have been amended to improve their language without reducing their scope.

### **Objection to the Drawings**

The Examiner alleges that Figures 1A-1G should be designated by a legend such as "Prior Art." However, Figures 1A-1G are clearly labeled with the legend "Background Art." No admission as to prior art has been made in the specification or drawings of the application. As a result, there is no need or requirement to amend Figures 1A-1G with an additional legend to clarify them.

**Rejections Over Applicant's Disclosure**

Claims 1, 5, 11, and 12 are rejected over 35 USC §102(e) as being anticipated by the Applicant's disclosure. Claims 2-4, 17, and 19 are rejected under 35 USC §102(e) as being anticipated by or in the alternative under 35 USC §103(a) as being obvious over the Applicant's disclosure. Claim 18 is rejected under 35 USC §103(a) as being obvious over the Applicant's disclosure. Claims 13-15 are rejected under 35 USC §103(a) as being unpatentable over the Applicant's disclosure in view of Matsuoka et al. (USP 5,130,449). Applicant traverses.

The impermissibility of utilizing the Applicant's disclosure as prior art has been fully discussed in the Amendment filed May 27, 2003. For brevity, the aforementioned discussion is not repeated here.

Further, even if it assumed *arguendo* that the Applicants disclosure can be utilized as prior art, this disclosure clearly fails to anticipate or suggest the invention embodied in originally presented claim 1. In his Response to Arguments at page 5 of the Office Action, the Examiner states: "Applicant has argued that there is no admission as to prior art. In response, in specification, page 2, lines 11-12, applicant clearly states that the process steps of Fid. 1A-1G is conventional." This statement, however, precedes a discussion of the conventional art at pages 2-6 of the specification. Nonetheless, nowhere in this discussion is

there a reference to chemical mechanical polishing (CMP). Claim 1, however, clearly has the limitation "performing Chemical Mechanical Polishing (CMP)."

As a result, independent claim 1 contains a limitation that is neither anticipated nor suggested by the conventional art described in the specification. Claims dependent upon claim 1 are patentable for at least the above reasons.

Nonetheless, in order to expedite allowance of subject material the Examiner admits is patentable, claim 6 has been canceled and its subject matter has been incorporated into claim 1. Claims dependent upon claim 1 are patentable for at least the above reasons.

These rejections are accordingly overcome and withdrawal thereof is respectfully requested.

#### **Conclusion**

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert E. Goozner, Ph.D. (Reg. No. 42,593) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

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Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) respectfully petition(s) for a one (1) month extension of time for filing a reply in connection with the present application, and the required fee of \$110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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